

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

_____ WEI YE)
Petitioner)
)
v.)
)
LUIS SPENCER)
Respondent)
_____)

CIVIL ACTION
NO. 04-11590-NG

**RESPONDENT'S MOTION TO DISMISS WITH PREJUDICE
PETITION FOR WRIT OF HABEAS CORPUS**

The respondent, Luis Spencer, hereby moves this Honorable Court to dismiss with prejudice the Petition for Writ of Habeas Corpus filed by the petitioner, Wei Ye. As grounds, the respondent states that the petition is time-barred pursuant to 28 U.S.C. § 2244(d)(1). The respondent relies upon the accompanying memorandum of law in support of his motion.

Respectfully submitted,

THOMAS F. REILLY
Attorney General

/s/ Daniel I. Smulow
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Date: September 13, 2004

Certificate of Compliance with Local Rule 7.1(A)(2)

I, Daniel I. Smulow, hereby certify that I telephoned Attorney Stephen B. Hrones, counsel for the petitioner, on September 10, 2004, but was unable to confer with him. In light of the nature of this motion, I presume that Attorney Hrones and I would have been unable to resolve or narrow the issues.

/s/ Daniel I. Smulow